

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Danny Ray Pittman, #54454A,)	
)	C/A No. 8:09-0801-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Michael Doty, Badge D8203, York County)	
Sheriff's Office, York, South Carolina,)	
)	
Defendant.)	
_____)	

Plaintiff Danny Ray Pittman is a pretrial detainee currently housed at York County Detention Center in York, South Carolina. On March 31, 2009, Plaintiff, appearing *pro se*, filed the within action pursuant to 42 U.S.C. § 1983, alleging that Defendant Michael Doty has wrongfully refused to refund \$388.00 in cash confiscated from Plaintiff as evidence.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the procedural provisions of 28 U.S.C. § 1915, 28 U.S.C. 1915A, and the Prison Litigation Reform Act. The Magistrate Judge filed a Report and Recommendation on April 15, 2009. The Magistrate Judge first noted that, to the extent Plaintiff alleges negligence, the due process clause is not implicated by a negligent act of a state official. See Pink v. Lester, 52 F.3d 73, 75 (4th Cir. 1995). The Magistrate Judge next noted that Plaintiff has a meaningful post-deprivation remedy for any intentional deprivation of property by Defendant. See S.C. Code Ann. § 15-69-10 et seq. (providing for a civil action in state court for the recovery of personal property). The Magistrate Judge further noted that, to the extent Plaintiff seeks mandamus type relief against Defendant or York County, the court is without jurisdiction to grant such relief.

See 28 U.S.C. § 1361. Accordingly, the Magistrate Judge recommended the complaint be dismissed without prejudice for failure to state a claim upon which relief may be granted.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The district court is obligated to conduct a *de novo* review of every portion of the Magistrate Judge's report to which objections have been filed. Id. The district court need not conduct a *de novo* review when a party makes only general and conclusory objections that do not direct the court to a specific error in the Magistrate Judge's proposed findings and recommendations. Orpiano v. Johnson, 687 F.2d 44, 47-48 (4th Cir. 1982).

Petitioner filed an objection to the Report and Recommendation on April 23, 2009, which reads in its entirety as follows:

My name is Danny Ray Pittman #54454, I am writing in Regards to the Dismissal and objection to the case 8:09-CV-00801-MBS - Date filed 4/15/2009 Entry Number 10. I am objecting the Ruling of Judge s/Bruce Howe Hendricks United States magistrate. In this 10 Day period. I will not state all of the fed - R - Civ. P(6A) and (E) and filing By mail pursuant to fed. R. Civ. P. 5. I was told I could file this statement as a prisoner of the State of South Carolina and in the County Government York Detention Center. Thank you for your time and helping assisting me in this matter.

Entry 12.

Plaintiff's objection fails to direct the court's attention to a specific error in the Magistrate Judge's proposed findings and recommendations. Nevertheless, the court has conducted a *de novo* review of the complaint and concludes that the Magistrate Judge has properly applied the applicable

law. The court adopts the Report and Recommendation of the Magistrate Judge and incorporates it herein by reference. The complaint is dismissed *without prejudice* and without issuance of service of process.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

April 28, 2009.

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.